

104TH CONGRESS
1ST SESSION

S. 1419

To impose sanctions against Nigeria.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 17 (legislative day, NOVEMBER 16), 1995

Mrs. KASSEBAUM (for herself, Mr. LEAHY, Mr. FEINGOLD, Mr. JEFFORDS, Mr. SIMON, Mr. PELL, Mr. WELLSTONE, Mr. MCCAIN, and Mr. GREGG) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To impose sanctions against Nigeria.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nigeria Democracy
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) Nigeria is one of the most important coun-
9 tries in Africa, with the largest population on the
10 continent, a critically important role in West Africa,
11 and tremendous economic and human potential.

1 (2) The American and Nigerian people have en-
2 joyed a long history of friendship and cooperation.

3 (3) Since independence in 1960, Nigeria has ex-
4 perienced a series of military and civilian govern-
5 ments, marked by coups and political instability, in-
6 cluding the devastating and tragic civil war in the
7 Biafra region.

8 (4) On June 12, 1993, Nigeria held a presi-
9 dential election, which most observers believe gen-
10 erally represented the will of the Nigerian people de-
11 spite imperfections in the electoral process, but the
12 Nigerian military government nullified that election
13 and later installed an interim government.

14 (5) On September 23, 1993, General Sani
15 Abacha overthrew the interim government and as-
16 sumed power in a military coup, and more than two
17 years later, on October 1, 1995, he announced a
18 three-year transition to democratic elections, a pe-
19 riod widely regarded as unnecessarily long.

20 (6) The rule of General Abacha has been
21 marked by egregious human rights abuses, a dev-
22 astating economic decline, and rampant corruption.

23 (7) On November 10, 1995, Ken Saro-Wiwa, an
24 internationally-recognized human rights activist, and
25 eight others, were executed following a seriously-

1 flawed judicial proceeding despite numerous pleas
2 for clemency from the international community; oth-
3 ers, including M.K.O. Abiola, General Obasanjo,
4 Beko Ransome-Kuti, and General Sheu Musa
5 Yar'Adua, have been sentenced in secret tribunals to
6 long prison terms.

7 (8) Since 1993, the United States and other
8 members of the international community, including
9 Great Britain, have imposed limited sanctions
10 against Nigeria to promote human rights and an ex-
11 peditious transition to civilian, democratic govern-
12 ment, but these efforts have had limited impact.

13 (9) The continued military rule of General
14 Abacha undermines confidence in the Nigerian econ-
15 omy, damages relations between Nigeria and the
16 United States, threatens the political and economic
17 stability of West Africa, and harms the lives of the
18 people of Nigeria.

19 **SEC. 3. DECLARATION OF POLICY.**

20 The Congress declares that the United States, work-
21 ing in concert with the international community, should
22 maintain a policy toward the Government of Nigeria that
23 is designed to protect internationally recognized human
24 rights, expedite the transition to civilian, democratic gov-

ernment, and promote equitable economic development in
Nigeria.

**SEC. 4. SANCTIONS AGAINST THE GOVERNMENT OF
NIGERIA.**

(a) UNITED STATES MEASURES TO PROMOTE DEMOCRACY AND HUMAN RIGHTS.—

(1) NO ASSISTANCE.—No assistance may be made available under the Foreign Assistance Act of 1961 or the Arms Export Control Act to the Government of Nigeria.

(2) INTERNATIONAL FINANCIAL INSTITUTIONS.—The President shall instruct the United States Executive Director of each international financial institution to vote against any loan or other utilization of the funds of the respective institution to or from Nigeria.

(3) AIR TRANSPORTATION.—Air transportation with Nigeria shall be prohibited in accordance with subsection (b).

(4) DEFENSE ARTICLES AND SERVICES.—No defense article or defense service may be sold or financed with respect to Nigeria, and no license to export to Nigeria a defense article or service may be issued.

1 (5) EXCLUSION OF NIGERIANS FROM ADMIS-
2 SION TO THE UNITED STATES.—Except as required
3 by United States treaty obligations, any Nigerian
4 national who formulates, implements, or benefits
5 from policies which hinder Nigeria’s transition to de-
6 mocracy and members of their immediate families
7 shall be ineligible to receive a visa and shall be ex-
8 cluded from admission into the United States.

9 (6) EXIMBANK, OPIC, AND TDA.—No funds
10 available to the Export-Import Bank of the United
11 States, the Overseas Private Investment Corpora-
12 tion, or the Trade and Development Agency may be
13 used with respect to Nigeria.

14 (7) PROHIBITION OF NEW INVESTMENT.—

15 (A) No national of the United States may,
16 directly or through another person, invest or
17 participate in the liquefied natural gas project
18 at Bonny, Nigeria.

19 (B) In addition to the prohibition con-
20 tained in subparagraph (A), no national of the
21 United States may, directly or through another
22 person, make any new investment in Nigeria,
23 including new investments in the energy sector.

1 (C) The prohibition contained in subpara-
2 graph (B) shall take effect 45 days after the
3 date of enactment of this Act.

4 (8) ASSETS FREEZE.—The President, acting
5 through the Secretary of the Treasury, shall exercise
6 the authority of the International Emergency Eco-
7 nomic Powers Act to block the assets of any Nige-
8 rian national who formulates, implements, or bene-
9 fits from policies which hinder Nigeria's transition
10 to democracy and members of their immediate fami-
11 lies.

12 (9) SPORTS.—It is the sense of Congress that
13 the international community should consider exclud-
14 ing or suspending Nigeria from international sports
15 activities, including the 1996 Summer Olympic
16 Games.

17 (b) PROHIBITION OF AIR TRANSPORTATION WITH
18 NIGERIA.—(1)(A) The President shall immediately notify
19 the Government of Nigeria of his intention to suspend the
20 rights of any air carrier designated by the Government
21 of Nigeria under any air transport agreement between the
22 United States and Nigeria to service the routes provided
23 in the agreement.

24 (B) Ten days after the date of enactment of this Act,
25 the President shall direct the Secretary of Transportation

1 to revoke the right of any air carrier designated by the
2 Government of Nigeria under such agreement to provide
3 service pursuant to the agreement.

4 (C) Ten days after the date of enactment of this Act,
5 the President shall direct the Secretary of Transportation
6 not to permit or otherwise designate any United States
7 air carrier to provide service between the United States
8 and Nigeria pursuant to such agreement.

9 (2)(A) The Secretary of State shall terminate any air
10 transport agreement between the Government of the
11 United States and the Government of Nigeria in accord-
12 ance with the provisions of that agreement.

13 (B) Upon termination of such agreement, the Sec-
14 retary of Transportation shall prohibit any aircraft of a
15 foreign air carrier owned, directly or indirectly, by the
16 Government of Nigeria or by Nigerian nationals from en-
17 gaging in air transportation with respect to the United
18 States.

19 (C) The Secretary of Transportation shall prohibit
20 the takeoff and landing in Nigeria of any aircraft by an
21 air carrier owned, directly or indirectly, or controlled by
22 a national of the United States or by any corporation or
23 other entity organized under the laws of the United States
24 or of any State.

1 (3) The prohibitions contained in paragraph (1) or
2 (2) do not apply when such air transportation is important
3 to the national interest of the United States, including
4 emergencies in which the safety of an aircraft or its crew
5 or passengers is threatened.

6 (4) For the purposes of this subsection, the terms
7 “aircraft”, “air transportation”, and “foreign air carrier”
8 have the meanings given those terms in section 101 of the
9 Federal Aviation Act of 1958 (49 U.S.C. 1301).

10 (c) MULTILATERAL MEASURES TO PROMOTE DE-
11 MOCRACY AND HUMAN RIGHTS.—(1) The President
12 should actively urge other countries to undertake steps,
13 similar to those in subsections (a)(1)–(9), including freez-
14 ing assets, to promote democracy and human rights in Ni-
15 geria.

16 (2) The President, acting through the United States
17 Permanent Representative to the United Nations, should
18 actively pursue the passage of a resolution in the United
19 Nations Security Council to impose an international arms
20 embargo against Nigeria.

21 (3) The President, both at the United Nations and
22 together with other members of the international commu-
23 nity, should actively seek multilateral support for an inter-
24 national embargo on the sale or distribution of any crude
25 oil or refined petroleum product from Nigeria.

1 (4) The President, acting through his representative,
2 should actively pursue the passage of a resolution con-
3 demning Nigeria at the United Nations Human Rights
4 Commission.

5 (d) WAIVER OF SANCTIONS.—(1) The President may
6 waive any of the sanctions contained in this section if he
7 certifies to Congress—

8 (A) that the Government of Nigeria has—

9 (i) released all political prisoners;

10 (ii) demonstrated a commitment to re-
11 specting internationally recognized human
12 rights, including respect for the rule of law; and

13 (iii) demonstrated an unequivocal commit-
14 ment to civilian, democratic government; or

15 (B) such waiver is important to the national in-
16 terest of the United States.

17 (2) In addition to the grounds of waiver set forth in
18 paragraph (1), the President may waive the sanctions con-
19 tained in subsection (a)(1) or (a)(4) for purposes of sup-
20 porting international peacekeeping operations.

21 (e) TERMINATION OF SANCTIONS.—The sanctions
22 contained in this section terminate when the President
23 certifies to Congress that the conditions contained in sub-
24 section (d)(1) have been met and the Nigerian Govern-
25 ment is civilian and democratic.

1 **SEC. 5. ADDITIONAL MEASURES.**

2 (a) SENSE OF CONGRESS.—It is the sense of Con-
3 gress that the United States should impose additional
4 measures against the Government of Nigeria if substantial
5 progress has not been made within three months of the
6 date of enactment of this Act in moving toward the estab-
7 lishment of civilian, democratic government and respect
8 for internationally recognized human rights.

9 (b) REPORT.—(1) The President shall prepare and
10 transmit to the Congress within three months of enact-
11 ment of this Act a report on the extent to which significant
12 progress has been made toward the establishment of civil-
13 ian, democratic government and respect for internationally
14 recognized human rights.

15 (2) If the President determines that significant
16 progress has not been made by the Government of Nigeria
17 in moving toward establishment of civilian, democratic
18 government and respect for internationally recognized
19 human rights, the President shall include in the report re-
20 quired by paragraph (1) steps taken under paragraphs (2)
21 and (3) or subsection 4(c) to build support for an inter-
22 national oil and arms embargo, as well as a recommenda-
23 tion and analysis of additional unilateral measures to be
24 imposed, including a unilateral oil embargo and a ban on
25 the export of any refined petroleum product to Nigeria.

1 **SEC. 6. DEFINITIONS.**

2 As used in this Act:

3 (1) INTERNATIONAL FINANCIAL INSTITU-
4 TION.—The term “international financial institu-
5 tions” includes the International Bank for Recon-
6 struction and Development, the International Devel-
7 opment Association, the International Finance Cor-
8 poration, the Mutual Investment Guarantee Agency,
9 the African Development Bank, the African Develop-
10 ment Fund, and the International Monetary Fund.

11 (2) NATIONAL OF THE UNITED STATES.—The
12 term “national of the United States” means—

13 (A) a natural person who is a citizen of the
14 United States or is an alien lawfully admitted
15 for permanent residence in the United States,
16 as defined by section 101(a)(20) of the Immi-
17 gration and Nationality Act; or

18 (B) a corporation, partnership, or other
19 business association which is organized under
20 the law of the United States, any State or terri-
21 tory thereof, or the District of Columbia.

22 (3) NEW INVESTMENT.—The term “new invest-
23 ment”—

24 (A) means—

25 (i) a commitment or contribution of
26 funds or other assets, and

1 (ii) a loan or other extension of credit,
 2 and

3 (B) does not include—

4 (i) the reinvestment of profits gen-
 5 erated by a controlled Nigerian entity into
 6 that same controlled Nigerian entity or the
 7 investment of such profits in a Nigerian
 8 entity; and

9 (ii) contributions of money or other
 10 assets where such contributions are nec-
 11 essary to enable a controlled Nigerian en-
 12 tity to operate in an economically sound
 13 manner, without expanding its operations.

14 (4) NIGERIAN ENTITY.—The term “Nigerian
 15 entity” means—

16 (A) a corporation, partnership, or other
 17 business association or entity organized in Ni-
 18 geria; or

19 (B) a branch, office, agency, or sole propri-
 20 etorship in Nigeria of a person that resides or
 21 is organized outside Nigeria.

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